REMARKS

This is in full and timely response to the Office Action dated July 2, 2007.

Claims 1-6, 8-9, 11, and 13 are currently pending in this application, with claim 1 being independent.

No new matter has been added.

Reexamination in light of the following remarks is respectfully requested.

New non-final Office Action

At least for the following reasons, if the allowance of the claims is not forthcoming at the very least and a new ground of rejection made, then a ***new non-final Office Action*** is respectfully requested.

Rejection under 35 U.S.C. §112

Page 2 of the Office Action indicates a rejection of claims 1-6, 8-9, 11, and 13 under 35 U.S.C. §112, first paragraph as allegedly failing to comply with the written description requirement.

This rejection is traversed at least for the following reasons.

In response to this rejection, please hold this rejection in abeyance at this time until the other art rejections have been overcome.

At that stage, an appropriate response may be addressed if still deemed necessary by the Examiner.

Double patenting

Page 3 of the Office Action indicates a rejection of claims 1-6, 8-9, 11, and 13 under as being rejected on the ground of non-statutory obviousness-type double patenting as allegedly being unpatentable over claims 15-18 of co-pending application number 11/105,550 (U.S. Patent Application Publication No. 2005/0239919).

This rejection is traversed at least for the following reasons.

Generally - U.S. patent practices and procedures set forth within M.P.E.P. §804(II)(B)(1) dictate that:

> Since the analysis employed in an obviousness-type double patenting determination parallels the guidelines for a 35 U.S.C. 103(a) rejection, the factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103 are employed when making an obvious-type double patenting analysis. These factual inquiries are summarized as follows:
>
> A) Determine the scope and content of a patent claim relative to a claim in the application at issue;
>
> (B) Determine the differences between the scope and content of the patent claim as determined in (A) and the claim in the application at issue;
>
> (C) Determine the level of ordinary skill in the pertinent art; and
>
> (D) Evaluate any objective indicia of nonobviousness.
>
> The conclusion of obviousness-type double patenting is made in light of these factual determinations.

Any obviousness-type double patenting rejection should make clear:

(A) The differences between the inventions defined by the conflicting claims - a claim in the patent compared to a claim in the application; and

(B) The reasons why a person of ordinary skill in the art would conclude that the invention defined in the claim at issue >is anticipated by, or< would have been an obvious variation of >,< the invention defined in a claim in the patent.

The Office Action makes reference to U.S. Patent Application Publication No. 2005/0239919 in the statement of the rejection of the claims.

In response, the claims found within U.S. Patent Application Publication No. 2005/0239919 are generally based upon the claims as originally filed on April 4, 2005. A review of the Patent Application Information Retrieval (PAIR) system on the website for the U.S. Patent and Trademark Office reveals the presence of an amendment in application number 11/105,550 that has been filed on June 15, 2007.

However, the Office Action fails to:

(A) Determine the scope and content of a ***most recent*** *claim found within application number 11/105,550* relative to a claim in the present application;

(B) Determine the differences between the scope and content of the ***most recent*** *claim found within application number 11/105,550* as determined in (A) and the claim in the present application;

(C) Determine the level of ordinary skill in the pertinent art; and

(D) Evaluate any objective indicia of nonobviousness.

The conclusion of obviousness-type double patenting is made in light of these factual determinations.

Moreover, the Office Action ***fails*** to make clear:

(A) The differences between the inventions defined by the conflicting claims - a ***most recent*** *claim found within application number 11/105,550* compared to a claim in the present application; and

(B) The reasons why a person of ordinary skill in the art would conclude that the invention defined in the claim within the present application >is anticipated by, or< would have been an obvious variation of >,< the invention defined in a ***most recent*** *claim found within application number 11/105,550.*

Withdrawal of this rejection and allowance of the claims is respectfully requested.

Rejections under 35 U.S.C. §103

Page 4 of the Office Action indicates a rejection of claims 1-6, 8-9, 11 and 13 under 35 U.S.C. §103 as allegedly being unpatentable over U.S. Patent No. 6,916,862 to Ota et al. (Ota) in view of Japanese Application Publication No. 2000-043465 and U.S. Patent No. 6,114,412 to Kanabayashi et al. (Kanabayashi), and in further view of U.S. Patent No. 5,678,942 to Kobayashi et al. (Kobayashi) and U.S. Patent Application Publication No. 2005/0096410 to Hattori et al. (Hattori).

This rejection is traversed at least for the following reasons.

The present application was filed after November 29, 1999. The present application and Hattori were, at the time the invention of the present application was made, ***commonly owned*** by Kabushiki Kaisha Pilot Corporation of Tokyo, Japan. But pursuant to 35 U.S.C. §103(c) and

M.P.E.P §706.02(l)(1), Hattori is ***disqualified as prior art*** for the purpose of any rejection made under 35 U.S.C. §103.

Moreover, Hattori reference has a filing date of October 8, 2003. However, the above-identified application is entitled to benefit of the filing date for Japanese Patent Application No. 2003-084878 of March 26, 2003, which is ***earlier*** than the filing date of the Hattori reference.

Thus, the rejection of claims under 35 U.S.C. §103 using Hattori should be *withdrawn* at least for these reasons.

Withdrawal of this rejection and allowance of the claims is respectfully requested.

Declaration under 37 C.F.R. §1.131

Pages 5-6 of the Office Action include assertions regarding language found within the claim.

In response, such a reconstruction appears to be an attempt to redefine the invention in a manner different than from what is disclosed within the specification and set forth within the claims in a manner that is *without authority* under Title 35 U.S.C., Title 37 C.F.R., the M.P.E.P. and relevant case law.

Conclusion

For the foregoing reasons, all the claims now pending in the present application are allowable, and the present application is in condition for allowance.

Therefore, this response is believed to be a complete response to the Office Action.

Applicants reserve the right to set forth further arguments supporting the patentability of their claims, including the separate patentability of the dependent claims not explicitly addressed herein, in future papers.

There is no concession as to the veracity of Official Notice, if taken in any Office Action. An affidavit or document should be provided in support of any Official Notice taken. 37 CFR 1.104(d)(2), MPEP § 2144.03. See also, *Ex parte Natale*, 11 USPQ2d 1222, 1227-1228 (Bd. Pat. App. & Int. 1989)(failure to provide any objective evidence to support the challenged use of Official Notice constitutes clear and reversible error).

Accordingly, favorable reexamination and reconsideration of the application in light of the remarks is courteously solicited.

Extensions of time

Please treat any concurrent or future reply, requiring a petition for an extension of time under 37 C.F.R. §1.136, as incorporating a petition for extension of time for the appropriate length of time.

Fees

The Commissioner is hereby authorized to charge all required fees, fees under 37 C.F.R. §1.17, or all required extension of time fees. If any fee is required or any overpayment made, the Commissioner is hereby authorized to charge the fee or credit the overpayment to Deposit Account # 18-0013.

If the Examiner has any comments or suggestions that could place this application in even better form, the Examiner is requested to telephone Brian K. Dutton, Reg. No. 47,255, at 202-955-8753.

Dated: October 2, 2007

Respectfully submitted,

By_____

Brian K. Dutton
Registration No.: 47,255
RADER, FISHMAN & GRAUER PLLC
Correspondence Customer Number: 23353
Attorney for Applicant